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*Attorneys for Plaintiff Shaela Evenson*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION**

_____	)	CV 14- 55-BU-DWM-JCL
<b>SHAELA EVENSON,</b>	)	
	)	
PLAINTIFF,	)	<b>MOTION TO VACATE &amp;</b>
	)	<b>RESCHEDULE NOVEMBER 5,</b>
v.	)	<b>2014 PRELIMINARY</b>
	)	<b>PRETRIAL</b>
<b>BUTTE CENTRAL CATHOLIC</b>	)	<b>CONFERENCE AND AUGUST</b>
<b>SCHOOLS,</b>	)	<b>22, 2014 PRELIMINARY</b>
	)	<b>PRETRIAL CONFERENCE</b>
DEFENDANT.	)	<b>ORDER.</b>
_____	)	

The Plaintiff, Shaela Evenson, through counsel, respectfully moves this Court for an Order vacating the Preliminary Pretrial Conference scheduled for Wednesday, November 5, 2014 and vacating the other provisions of the Court's August 22, 2014 Order, as amended on September 16, 2014. While the Defendant has not been formally served because of the pending issues, and thus has not appeared in this action, the undersigned has spoken with Kathleen DeSoto, one of the attorneys for the Diocese of Helena, who states she has no objection to this Motion. *Cf.*, L.R.7.1(c)(1).

The reason for this Motion is that Ms. Evenson's claim may be subject to the pending bankruptcy action titled: *In Re: Roman Catholic Bishop of Helena, Montana, a Montana Religious Corporation Sole (Diocese of Helena)*, Case No. 14-60074 (D. Mont. ), pending in the United States Bankruptcy Court for the District of Montana.

Ms. Evenson filed this action against the Defendant, Butte Central Catholic Schools, but not the Diocese of Helena, because of the existing bankruptcy and stay. Ms. Evenson does not believe this proceeding violates the stay, because, upon information and belief, the School is an entity separate from the Diocese of Helena.

Out of abundance of caution, Ms. Evenson timely filed her proof of claim in Bankruptcy, *see* Exhibit A, and as a result may be subject to the automatic stay, which holds in abeyance creditor actions against the Diocese. 11 U.S.C. § 362(a); <http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyBasics/Chapter11.aspx>. The parties are working in good faith toward a resolution of this issue, hopefully without the need for judicial intervention.

Counsel for Ms. Evenson have been in discussions with counsel for the Diocese of Helena, with respect to a motion to the Bankruptcy Court seeking relief from the automatic stay which, if granted, would allow this action to proceed outside of the Bankruptcy action. Based upon conversations to date, counsel for the Diocese does not plan to oppose the motion to lift the stay. Counsel anticipates filing that motion the week of October 27, 2014 and further anticipates the motion will be quickly granted by the Bankruptcy Court, allowing this action to go forward against both the School and the Diocese (which will require the filing and service of an amended complaint).

A proposed Order is submitted with this Motion in PDF format as an exhibit and emailed to the Court in Word. L.R. 7.1(c)(3)(A) and (B).

RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of October, 2014.

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*Attorney for Plaintiff Shaela Evenson*

### CERTIFICATE OF SERVICE

I certify that on October 24, 2014, a copy of the “***Plaintiff’s Motion to Vacate, and Reschedule . . .***” was served upon the following by the following means:

	<u>Person</u>		<u>Means</u>
1.	Clerk, U.S. District Court District of Montana Butte Division CM/ECF	X ____ ____	Electronic Mail U.S. Mail Hand Delivery
2.	Kathleen L. DeSoto ( <u><i>courtesy copy</i></u> ) Garlington, Lohn & Robinson, PLLP 350 Ryman Street Missoula, MT 59802 <u>Attorney for Roman Catholic Bishop of Helena</u> <u>Method of Service: Electronic Mail: kldesoto@GARLINGTON.COM</u> <u>And First Class Mail, Postage Prepaid</u>	X X	Electronic Mail U.S. Mail

/s/ Brian K. Gallik  
Attorneys for Plaintiff